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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,725	10/24/2003	Wade J. Chilton	23-0191	2385

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EXAMINER

THOMPSON, HUGH B

ART UNIT PAPER NUMBER

3634

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/693,725

Applicant(s)

CHILTON, WADE J.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 2, 4, 5 and 8-10 is/are rejected.  
7) ☒ Claim(s) 3, 6, 7 and 11 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10-24-03.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 5, 7, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 2, 5, and 11, there is no antecedent basis for "lateral brace(s)". With respect to claims 7 and 11, there is no antecedent basis for "the medial brace". Note the recitations "brace arms" for each original recitation of the elements.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison #6,478,113 in view of Boughner #5,423,397. Ellison discloses a ladder system comprised of stiles 22, rungs 24 and stile extensions 30 that are adjustably supported within the lower end of the stiles. Ellison fails to disclose rung engaged lateral support assemblies for the system.

Boughner teaches the utility of lateral ladder stabilizer support 10 for receipt within hollow rungs 20, 22, comprised of vertical sections 40, 42, that telescope (member 74) and terminate with feet 44, 46, horizontal sections 32, 34, that are adjustably supported within the

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rungs. An assembly such as this provides excellent support for a ladder upon a support surface. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder system of Ellison with lateral supports as taught by Boughner, so as to provide additional support of a ladder upon a support surface, while producing no new and unexpected results. It would have been further obvious to provide additional lateral supports at an opposed end of the ladder, this being no more than a duplication of parts, not expected to produce any new and unexpected results.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison in view of Boughner as applied to claims 1, 2, 4, and 5 above, and further in view of Fleischer #3,724,592. Ellison in view of Boughner fails to disclose multiple ladder section pivotally connected to form a scaffold or the like. Fleischer teaches the utility of a ladder/scaffold assembly 10 comprised of pivotally connected ladder sections, as best seen in Figure 5, having extending leg portions, this arrangement serving to allow a user multiple use configurations for the assembly. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the ladder system of Ellison in view of Boughner with a scaffold assembly with multiple ladder sections as taught by Fleischer, so as to provide a user thereof multiple use configurations.

#### ***Allowable Subject Matter***

Claims 3, 6, and 7, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter for claim

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6 inclusive of claim 11, is the inclusion of a medial outboard rail and brace arm secured to the ladder. For claim 3 inclusive of claim 11, it is the inclusion of an upper ladder extension secured to the upper rails of the ladder. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Laug #6,382,353, Shore #3,059,723, and Allison #6,360,845 are cited to teach ladder assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

September 30, 2004

HUGH B. THOMPSON II  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600